

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SUZANNE SCHWEDRSKY, L.P.N.,
RESPONDENT.

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FINAL DECISION
AND ORDER
LS9207102NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 30 day of October, 1992.

Jacqueline Johnson RN1.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SUZANNE SCHWEDRSKY, L.P.N.,

RESPONDENT.

PROPOSED DECISION
LS 9207102 NUR

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Suzanne Schwedrsky
1148 Moraine View Drive #106
Madison WI 53719

Wisconsin Board of Nursing
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
P.O. Box 8935
Madison WI 53708

A hearing was held in this matter on September 17, 1992. The Division of Enforcement was represented by Attorney Steven M. Gloe. Respondent Suzanne Schwedrsky did not appear, and no one appeared on her behalf.

On the Division's motion for a default pursuant to s. RL 2.14, Wis. Admin. Code, there being no answer or appearance made on Respondent's behalf, the Board of Nursing is permitted to deem the allegations of the complaint admitted. Accordingly, the Administrative Law Judge recommends that the Board of Nursing adopt the following Findings of Fact, Conclusions of Law, Order and Opinion as its Final Decision in this matter.

FINDINGS OF FACT

1. Suzanne Schwedrsky, has a date of birth of 9/12/66, and was duly licensed as a practical nurse in the state of Wisconsin on August 25, 1989. She holds license #102265.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 1148 Moraine View Drive, #106, Madison, Wisconsin 53719.

3. On exact dates unknown, but beginning in approximately May 1991 and continuing up to September 26, 1991, Ms. Schwedrsky diverted controlled substances and other prescription drugs for her personal use from her employer, Oakwood Village Lutheran Homes, 6201 Mineral Point Road, Madison, Wisconsin.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction in this matter pursuant to s. 441.07, Stats.

2. By diverting controlled substances and other prescription drugs from her employer to her personal use, Respondent has violated s. 441.07(1), Stats, and ss. N 7.04(1) and (2), Wis. Admin. Code.

ORDER

Now, therefore, the license previously issued to Suzanne Schwedrsky as a practical nurse is hereby REVOKED.

It is further ordered that the assessable costs of this proceeding be imposed upon Suzanne Schwedrsky pursuant to s. 440.22, Wis. Stats.

OPINION

It is a violation of ch. 161, Stats., to obtain controlled substances without a valid prescription for the controlled substances. Ch. 161, Stats., is a law regulating behavior substantially related to the practice of nursing. It is clearly a violation of s. N 7.04(2), Wis. Admin. Code for a nurse to obtain controlled substances other than through the use of a valid prescription.

Ms. Schwedrsky's failure to answer or attend the hearing raises substantial doubts about her desire to comply with the regulations governing the profession of nursing. The notice of the hearing and the complaint were returned by the Postal Service, unclaimed, but a subsequent mailing by regular first class mail was not. The address on file with the Board of Nursing is apparently the address to which the Postal Service delivers Ms. Schwedrsky's mail, and service of the notice of hearing and complaint is complete upon mailing.

There are a number of questions which would need to be answered in order to determine whether Ms. Schwedrsky is able to practice nursing with due regard for the protection of the public. In as much as those questions cannot be answered without Ms. Schwedrsky's co-operation, revocation of the nursing license is the only available discipline which is certain to protect the public until such time as Ms. Schwedrsky decides to contact the Board and request reinstatement of her license to practice nursing.

Dated this 18th day of September, 1992.

James E. Polewski
James E. Polewski

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Nursing.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Nursing.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Nursing.

The date of mailing of this decision is November 3, 1992.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SUZANNE SCHWEDRSKY, L.P.N.,
RESPONDENT.

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AFFIDAVIT OF COSTS
OFFICE OF BOARD LEGAL SERVICES
LS 9207102 NUR

STATE OF WISCONSIN,
COUNTY OF DANE, ss:

James E. Polewski, being first duly sworn on oath deposes and says

1. He is an attorney licensed to practice law in the state of Wisconsin, and is employed by the Office of Board Legal Services, Department of Regulation and Licensing.

2. In the course of that employment, he was assigned to act as Administrative Law Judge in the above-captioned case, and expended the following time and committed the Department to the following expense:

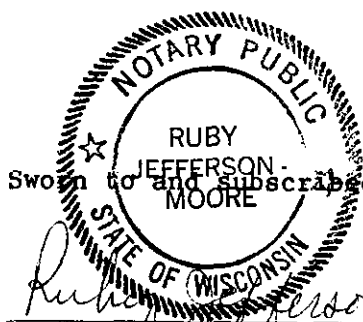
<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
9/17/92	Preside at hearing	15 minutes
9/17/92	Draft decision	35 minutes
9/18/92	Draft decision	10 minutes

TOTAL TIME 1 hour

Administrative Law Judge expense (\$24.75 per hour) \$24.75

Transcript expense (Magne Script Reporters) \$53.20

TOTAL ASSESSABLE COSTS, OFFICE OF BOARD LEGAL SERVICES \$177.95



Sworn to and subscribed before me this 3d day of November, 1992.

Ruby Jefferson-Moore
Notary Public
My Commission is Permanent.

James E. Polewski
James E. Polewski

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	AFFIDAVIT OF COSTS
SUZANNE SCHWEDRSKY, L.P.N.,	:	92 NUR 016
RESPONDENT.	:	

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That he is an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement;

2. That in the course of those duties he worked as the prosecutor in the above-captioned matters; and

3. That set forth below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of business in the above-captioned matter:

INVESTIGATOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
03/09/92	Review file	10 minutes
03/25/92	Witness contacts	1 hour
04/01/92	Draft correspondence; telephone calls	20 minutes
05/14/92	Telephone call; draft letter	1 hour
06/01/92	prepare case for transfer to attorney	10 minutes
		<hr/> 2 hours 40 min.

Total investigator expense for 2 hours 40 minutes
at \$18.00 per hour (based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$ 48.06

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
07/10/92	Review file; draft complaint; schedule hearing	1 hour 30 min.

07/29/92	Re-issue complaint and notice	15 minutes
07/17/92	Hearing preparation; attend hearing	45 minutes
		<hr/> 2 hours 30 min.

Total attorney expense for 2 hours 30 minutes at \$30.00 per hour (based upon average salary and benefits for Division of Enforcement attorneys) equals:	\$ 75.00
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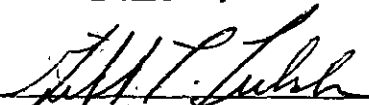
TOTAL ASSESSABLE COSTS

\$ 123.06



Steven M. Gloe

Subscribed and sworn to before me
this 18th day of October, 1992.



Notary Public
My Commission is Permanent.